

December 8, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Communication, GN Docket No. 16-142

Dear Ms. Dortch:

On December 2, 2016, the American Television Alliance (ATVA) submitted a letter in the above-referenced docket.¹ ATVA seeks further delay in response to a petition for rulemaking that would allow broadcasters on a voluntary basis to begin transmitting using the Next Generation TV standard.² The Commission should disregard ATVA's self-serving anti-consumer stalling and promptly issue a Notice of Proposed Rulemaking that will encourage innovation and competition in an evolving media and telecommunications ecosystem.

ATVA's letter appears to have been drafted without reading the actual petition on which it is commenting or the subsequent submissions by the National Association of Broadcasters (NAB) and other parties to the record of this proceeding over the last several months:

- Notwithstanding ATVA's tangent regarding the DTV transition and associated converter box program,³ petitioners have repeatedly emphasized that they are not seeking any government subsidies or additional spectrum in this transition.⁴ NAB and its fellow petitioners have stated, in terms no party could misunderstand other than

¹ Letter from Mike Chappell to Marlene H. Dortch, GN Docket No. 16-142 (Dec. 2, 2016) (ATVA Letter).

² Joint Petition for Rulemaking of America's Public Television Stations, AWARN Alliance, Consumer Technology Association and the National Association of Broadcasters, GN Docket No. 16-142, Attachment B at 36-39 (April 13, 2016).

³ ATVA Letter at 2.

⁴ Reply Comments of America's Public Television Stations, the AWARN Alliance, the Consumer Technology Association and the National Association of Broadcasters at 2, GN Docket No. 16-142 (June 27, 2016) (Petitioner Reply Comments).

willfully, that the transition to Next Generation TV will be a wholly voluntary, market-driven transition.⁵

- Despite ATVA's handwringing concerning forced carriage of Next Generation TV signals and the costs MVPDs might be forced to bear to carry such signals, petitioners have stated, again in unmistakably clear terms, that MVPDs will not be forced to carry Next Generation TV signals.⁶ Just as simulcasting of broadcaster signals will protect viewers, so too will it protect those MVPDs that receive signals over the air and elect not to carry Next Generation TV signals. If MVPDs elect to carry Next Generation TV signals, there may be associated costs, but that choice will theirs.
- Petitioners have plainly stated that the Commission should address issues surrounding a potential sunset of transmissions using the current standard in a separate proceeding based on the progress of the transition.⁷ ATVA's questions concerning the potential cessation of ATSC 1.0 signals are premature, and the Commission can and should consider these questions only when market conditions make them relevant.

Even more remarkable than its failure to engage with the record in a serious manner is ATVA's inability to find space in a seven-page letter to acknowledge the consumer benefits associated with Next Generation TV. Stunning improvements in picture quality, more immersive audio, expanded opportunities for diverse programming and enhanced emergency alerts are all wholly absent from ATVA's discussion. The Commission should be curious as to why that might be.

One explanation is that the MVPDs that ATVA represents (a list is included below) simply do not care about providing their customers with better service. Indeed, MVPDs are well-known for doing what they can to avoid upgrading consumer services. ATVA's filing boils down to a fear that if consumers enjoy and ultimately demand a Next Gen TV product, MVPDs will have to deliver it. It's almost embarrassing at this point the lengths ATVA will go to in order to ensure that its members pocket the greatest return. Fortunately for ATVA MVPDs are not required to operate in the public interest.

It is also worth noting that ATVA has an additional motivation to delay broadcasters' ability to offer enhanced services to consumers: fear of competition. While broadcasters seek to embrace technological progress and innovation to provide a better consumer experience,

⁵ Petitioner Reply Comments at 5-6, 17; Petition for Rulemaking of America's Public Television Stations, the AWARN Alliance, the Consumer Technology Association and the National Association of Broadcasters at iii, 3-4, 13, 17 (April 13, 2016).

⁶ Letter from Lonna M. Thompson, Julie M. Kearney, John M. Lawson and Rick Kaplan to Marlene H. Dortch, GN Docket No. 16-142 (May 26, 2016); Petitioner Reply Comments at 11.

⁷ Petitioner Reply Comments at 11-12.

ATVA seeks to delay that progress to deny consumers alternatives to ATVA's pay-TV benefactors for as long as possible. Certain of ATVA's members are already offering 4K ultra-high definition programming. Unless the Commission authorizes Next Generation TV, the only way viewers can access such programming is by paying MVPDs or over-the-top providers. While ATVA plainly has an interest in preventing viewers from receiving a competitive service, the Commission does not.

Broadcasters are requesting permission from the FCC to make significant investments in their facilities to improve the service they offer, which will provide tremendous benefits to viewers. They are seeking to accomplish this transition without government subsidies, without additional spectrum and without leaving viewers behind. NAB does not believe that ATVA's letter poses a single legitimate question that the Commission would need to answer before authorizing broadcasters to operate using the Next Generation TV standard on a voluntary basis. However, to the extent the Commission disagrees and finds that ATVA does raise worthwhile questions, it should promptly set those questions forth in a Notice of Proposed Rulemaking. Despite ATVA's wishes, there is no reason for the Commission to delay any further.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'Rick Kaplan', with a long horizontal line extending to the right.

Rick Kaplan
General Counsel and Executive Vice President,
Legal and Regulatory Affairs
National Association of Broadcasters

ATVA Members

The Africa Channel
Altice USA
American Cable Association
American Public Power Association (APPA)
AT&T
BendBroadband
Cablevision Systems Corp.
CenturyLink
Charter Communications
Comporium
Discovery Communications
DISH Network
Eastern Rural Telecom Association
GMC
Harron Communications
Independent Telephone and Telecommunications Alliance
Massillon Cable TV
Mediacom Communications
Midcontinent Communications
New America Foundation
NTCA – The Rural Broadband Association
Outdoor Channel
Parents Television Council
Retirement Living TV
Rural Independent Competitive Alliance
NUVOtv
Starz Entertainment
USTelecom
Verizon
Wave Broadband and Astound Broadband